

Advisory Opinion

IECDB AO 2010-08

Subject: Campaign Events on Corporate Campus

Marc Beltrame
Brown Winick Law Firm
Via Email

Dear Mr. Beltrame:

This opinion is in response to your email letter of August 31, 2010, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(12) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You advise us that your clients Nationwide Mutual Insurance Co., Allied Insurance, and Nationwide Agribusiness are hosting events on their corporate campus and desire guidance as to whether or not these events constitute a corporate campaign contribution. There are two types of events for which you are seeking guidance:

1. A 45 minute presentation by a candidate to Nationwide/Allied employees. The event is sponsored by the Nationwide/Allied Civic Action Program (CAP). No refreshments are provided and the events are closed media. Nationwide/Allied advertises the events internally via email and posted signs. The events are entirely voluntary for Nationwide/Allied employees and otherwise closed to the public at-large.
2. A 45 minute "meet and greet" sponsored by the Nationwide/Allied employee political committee (PAC). The candidate does not make any speeches and does not solicit PAC members for funds. Moreover, the PAC does not make any contributions to the candidate at the event nor is any contribution promised or conditioned upon the candidate attending. The event is a "perk" for PAC members to meet elected officials and candidates.

You also provided us with this overview of the CAP program: it is a channel that interested employees/members are informed of state and federal legislative issues of concern to Allied and Nationwide Agribusiness and the insurance industry. It is devoted to the development of good citizenship and facilitation of employee involvement in the governmental system. Allied and Nationwide Agribusiness believe that the country's interests are best served when well-informed citizens are active in civic and political

life. This fits well with “Living the Values.” CAP sponsors several activities annually, including Voter Registration, Meet the Candidate Programs, and Day on the Hill. When a legislative issue of concern arises, CAP members are requested to contact their legislators through an “Action Call.” CAP is an organization requiring civic action on the part of members. There are no dues and it is not a fundraising organization. CAP is nonpartisan and does not provide financial support to candidates. Any Allied or Nationwide Agribusiness associate may be a member of CAP.

QUESTION:

Would either of these events constitute campaign events that trigger the corporate contribution ban in Iowa Code section 68A.503?

OPINION:

The campaign laws in Iowa Code chapter 68A do not define a “candidate event.” Iowa Code section 68A.102(3) defines “campaign function” as meaning “any meeting related to a candidate’s campaign for election.” Iowa Code section 68A.102(15) defines “fundraising event” as meaning “any campaign function to which admission is charged or at which goods or services are sold.”

In reviewing definitions we believe that a “campaign function” must reflect meetings where “express advocacy” activities occur.¹ Thus to be a “campaign function,” the event would include fundraising or communications that “expressly advocated” the election or defeat of the candidate by the use of words or symbols that unambiguously exhort someone to vote for or against a candidate. Otherwise, arguably every meeting that an incumbent had on government or corporate property could constitute a “campaign function” and would be prohibited absent reimbursement being provided.²

Iowa Code section 68A.503 was enacted to prohibit financial institutions, insurance companies, and corporations from making campaign contributions to candidates, political parties, and political committees (PACS) involved with candidate elections. It was not intended to shut down all forms of communication between a candidate and these entities. The same analysis is true for the prohibition on government entities using their resources to make contributions to candidates or committees under Iowa Code section 68A.505.

Prohibited contributors under Iowa Code section 68A.503 are permitted to have political committees (PACS). In addition, they are permitted to use their general operating funds for the “administrative costs” of maintaining a PAC.³

In applying these definitions and standards to your question, we do not believe that either event that you describe would constitute a “campaign function” triggering Iowa Code section 68A.503. If an event did become a “campaign function” because there was fundraising or “express advocacy” communications, then it would be necessary for someone who was not a prohibited contributor to reimburse your clients for the fair

market value cost of the event and the transaction would need to be properly disclosed on campaign finance reports.⁴

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Gerald Sullivan
John Walsh
Patricia Harper
Saima Zafar
Carole Tillotson

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ See Iowa Code section 68A.102(14) and Board rule 351—4.53 for the definition of “express advocacy.

²This would create an untenable legal and regulatory position for candidates and for the Board if every single candidate meeting necessitated a Board finding of fact to determine if the meeting “related to a candidate’s campaign for election” to determine if the prohibitions in Iowa’s campaign laws would apply.

³See Board rule 351—4.52 for further guidance on the what costs constitute “administration” of a PAC.

⁴ For example the payment for the fair market value of the use of the room where the meeting took place.